

## Message Text

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PASS EB FOR BOEKER, L FOR FELDMAN, TREASURY FOR LANGE,  
CIEP FOR GRANFIELD, COMMERCE FOR ARRILL

E.O. 11652: N/A

TAGS: EINV, EFIN, OECD

SUBJECT: INVESTMENT COMMITTEE (CIME) DRAFTING GROUP  
MEETING, OCTOBER 29-30, 1975

REFS: (A) IME/WP/75.6  
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(D) OECD PARIS 27785  
(E) DAF/CFA/75.24  
(F) IME/UP/75.5  
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1. SUMMARY: CIME DRAFTING GROUP MEETING OCTOBER 29-30  
SUCCEEDED IN DE-FUSING ISSUE THAT HAD ARISEN OVER  
HANDLING OF ALTERNATIVES IN INFORMATION PROVISION OF  
DRAFT MNE GUIDELINES IN REFDOCS C AND F, ALTHOUGH IT  
WAS NOT POSSIBLE TO MAKE ANY FURTHER PROGRESS ON  
THIS PROVISION ON BASIS OF THE U.S. COMPROMISE  
TEXT. ALTERNATIVES FOR INFORMATION SECTION WERE REINSERTED FOR  
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NEXT IME, AND IT WAS AGREED TO SEND SLIGHTLY MODIFIED

ALTERNATIVE B CONTAINED IN REFDOC C TO BIAC/TUAC.  
SIGNIFICANT PROGRESS WAS MADE IN SHARPENING AND CLARIFY-  
ING NATIONAL TREATMENT AND INCENTIVES/DISINCENTIVES  
DRAFTS FOR CONSIDERATION BY NEXT IME, WITH REMAINING  
UNDECIDED ISSUES CLEARLY INDICATED IN BRACKETED FORM.  
MAJOR REMAINING ISSUES ON NATIONAL TREATMENT ARE  
EXCEPTIONS PROVISION AND STATEMENT OF THE PRINCIPLE.  
INCENTIVES/DISINCENTIVES CLOSE TO COMPLETE AGREEMENT,  
ALTHOUGH INTRODUCTION OF NEW PARA 8 AIMED AT CREATING  
EXCEPTION FOR CERTAIN EEC ACTIONS HAS RAISED ISSUE  
WHICH WILL NEED TO BE RESOLVED BY IME. CONSULTATION  
PROCEDURES FOR BOTH DOCUMENTS REMAIN AN OPEN ISSUE, WITH  
SWEDEN CONTENDING THAT CONSISTENT CONSULTATION APPROACH  
MUST BE AGREED UPON FOR ALL ELEMENTS OF INVESTMENT  
PACKAGE. END SUMMARY

2. DISCUSSION OF MNE GUIDELINES TEXT SENT TO BIAC/TUAC.  
SWEDEN OPENED MEETING BY EXPRESSING CONCERN THAT REFDOC  
F WHICH WENT TO BIAC AND TUAC, UNLIKE REFDOC C, WHICH  
WENT TO GOVERNMENTS, INCLUDED DESIGNATION OF ALTERNA-  
TIVES IN INFORMATION PROVISION CONTRARY TO AGREEMENT  
REACHED IN PREVIOUS DRAFTING GROUP MEETING. DUTCH  
SUPPORTED SWedes AND JOINED THEM IN CONTENDING THAT  
COMPROMISE MADE MORE DIFFICULT BECAUSE BIAC AND TUAC NOW  
ENCOURAGED TO CHOOSE AN ALTERNATIVE AND HARDEN POSITIONS  
RATHER THAN CONSIDERING SUBSTANCE OF PROVISION AS A  
WHOLE. JAPAN CONTENDED ON THE OTHER HAND THAT SERIOUS  
PROBLEMS REMAINED WITH THE PROVISION WHICH MADE IT  
UNWISE TO GIVE IT AS A CLEAN TEXT TO BIAC AND TUAC,  
WITHOUT ALTERNATIVES INDICATED.

3. SECRETARIAT (VOGELAAR) NOTED THAT ALTERNATIVES HAD  
BEEN INCLUDED IN INFORMATION SECTION OF TEXT TO BIAC/  
TUAC AT REQUEST OF A GOVERNMENT (U.S.) SUBSEQUENT TO THE  
LAST DRAFTING GROUP MEETING. HE WENT ON TO CORRECT  
APPARENT MISCONCEPTION ON PART OF SWedes AND SOME OTHERS  
THAT BIAC/TUAC HAD NOT BEEN CAUTIONED THAT DRAFT MNE  
GUIDELINE WAS NOT NECESSARILY AGREED TO BY GOVERNMENTS  
AND VOGELAAR DISTRIBUTED COPIES OF OCTOBER16 LETTER TO BIAC/TUAC  
TO THIS EFFECT. (COPY FORWARDED TO WASHINGTON WITH  
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OTHER DOCUMENTS AS REPORTED REF G.)

4. USDEL EXPLAINED THAT US HAD MADE REQUEST TO  
INCLUDE ALTERNATIVES CONSISTENT WITH ITS POSITION IN  
THE LAST WORKING GROUP MEETING THAT SOME METHOD OF  
NOTING SPECIFIC LACK OF AGREEMENT ON INFORMATION  
PROVISION MUST BE MAINTAINED IN THE DRAFT PRESENTED  
TO BIAC/TUAC. USDEL INDICATED FURTHER THAT ABSENCE

OF ALTERNATIVES WAS NOT NEUTRAL BUT RATHER RESULTED  
IN TEXT WHICH COMPLETELY REFLECTED ONE ALTERNATIVE  
WHILE ENTIRELY SUBMERGING THE OTHER, WHICH IS ONE  
SUPPORTED BY THE US. FRG DEPLORED MISUNDERSTANDING,  
ADDING THAT COMPROMISE WILL NOW BE HARDER TO REACH, BUT

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URGING THAT WE RENEW OUR EFFORTS TO ACHIEVE IT. (AS  
EXPLAINED IN PARA 11, BELOW, DRAFTING GROUP AGREED TO  
AMEND ALTERNATIVE B OF INFORMATION SECTION OF GUIDE-  
LINES TEXT TO BE DISCUSSED WITH BIAC/TUAC.)

NATIONAL TREATMENT

5. FOLLOWING IS PARAGRAPH BY PARAGRAPH SUMMARY OF THE  
RESULTS OF DISCUSSION DURING REMAINDER OF FIRST DAY OF  
REFDOC A. (AT VOGELAAR'S SUGGESTION IT WAS AGREED THAT  
BRACKETS WOULD BE USED TO INDICATE ALTERNATIVE LANGUAGE  
SUBJECT TO FURTHER DISCUSSION.)

6. (A) INTRODUCTION: U.K. SUGGESTED SUBSTITUTION OF  
"RECOMMENDS" FOR "DECIDES". (B) PARA 1: DEGREE OF

COMMITMENT TO PRINCIPLE WILL BE IN BRACKETED LANGUAGE,  
EITHER "ENDEAVORS TO" OR "ACCORD;" DESCRIPTION OF  
ENTERPRISES WILL INDICATE EITHER "UNDER FOREIGN CONTROL"  
OR, BRINGING IN ELEMENTS OF FORMER DEFINITION, "ENTER-  
PRISES FINANCED EITHER DIRECTLY OR INDIRECTLY BY  
CAPITAL FROM ABROAD OR THE EFFECTIVE CONTROL OF WHICH  
IS EXERCISED BY FOREIGN ENTERPRISES OR INDIVIDUALS..."  
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(C) PARA 2 WILL NOT CONTAIN BRACKETED LANGUAGE AND  
WILL REMAIN AS IS. (D) PARA 3: FIRST PART OF PARA,  
REFERRING TO EXISTING, RATHER THAN "SPECIFIC" EXCEP-  
TIONS, WILL BE IN BRACKETS, SUBJECT TO CONSULTATIONS/  
DISCUSSIONS IN PARA 10; IN SECOND PART OF PARA,  
BRACKETED LANGUAGE REMAINS, AND IN SECOND PAIR OF  
BRACKETS, "SUBJECT TO OVERRIDING NATIONAL INTERESTS,  
INCLUDING, INTER ALIA, SERIOUS INJURY TO THE NATIONAL  
ECONOMY," AS WELL AS U.K. ADDITION "ECONOMY, OR PARTS  
THEREOF" WILL BE IN BRACKETED LANGUAGE; (E) PARAS 4  
AND 5: IN GENERAL, ALL OF THIS LANGUAGE WILL BE IN  
BRACKETS, REFLECTING THE PROBLEMS OF HANDLING THE EEC/  
ECONOMIC UNION QUESTION. USDEL REQUESTED CLARIFICATION  
OF THE ISSUE OF WHETHER "ESTABLISHMENT" RATHER THAN  
FOREIGN OWNERSHIP IS CRITERION FOR BEING A "COMMUNITY  
COMPANY." USDEL ALSO EXPRESSED CONCERN THAT WE SHOULD  
NOT NOW APPEAR TO BE SUPPORTING POSSIBILITY OF DISCRIMI-  
NATION IN THE EEC ON THE BASIS OF FOREIGN OWNERSHIP, AND  
POINTED OUT THAT ANY EXCEPTION BASED ON THE ECONOMIC/  
TRADE GROUPING CONCEPT MUST BE SPECIFIC AS TO PURPOSE  
OF THE UNION. (F) PARA 6 WILL BE REDRAFTED TO TAKE  
INTO ACCOUNT ISSUE OF RECIPROCITY WITH RESPECT TO  
APPLICATION OF THE PRINCIPLE; (G) PARA 7: ALTERNATIVES  
A AND B AS TO CONSULTATION OR NOTIFICATION PROCEDURES  
WILL BE ESSENTIALLY UNCHANGED, ALTHOUGH IN LAST PARA-  
GRAPH OF ALTERNATIVE B BOTH "NOTIFY" AND "JUSTIFY"  
WILL BE IN BRACKETS. ON THIS ISSUE, THERE WAS SOME  
BACKSLIDING BY FRG ON QUESTION OF ADVANCE CONSULTATION.  
THEY APPEAR WILLING TO ACCEPTERELY "NOTIFICATION" ON  
THE UNDERSTANDING THAT THIS INCLUDES SOME RATIONALE FOR  
THE ACTION; (H) PARAS 8, 9, 10 WILL REMAIN SUBSTANTIALLY  
UNCHANGED. IN CONCLUSION, SWedes AGAIN EMPHASIZED THAT  
THEY LINK FURTHER PROGRESS ON NATIONAL TREATMENT, E.G.  
ACCEPTANCE OF "JUSTIFICATION" INSTEAD OF "NOTIFICATION,"  
TO FURTHER PROGRESS ON THE INFORMATION PROVISION OF MNE  
GUIDELINES.

7. INCENTIVES/DISINCENTIVES. DISCUSSION OF REFDOC B  
PROCEEDED AS FOLLOWS: (A) PARAS 1 AND 2: USDEL READ  
FROM SUMMARY RECORD OF LAST IME THAT IT WAS CLEARLY  
INDICATED PARAS 1 AND 2 WERE NOT BE LIMITED ONLY TO

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FOREIGN INVESTMENT. ACCORDINGLY, WHETHER PROVISION APPLIES TO ALL INVESTMENT OR IS LIMITED TO FOREIGN INVESTMENT WILL BE CARRIED FORWARD IN BRACKETED LANGUAGE; (B) PARA 3 WILL BE UNCHANGED; (C) PARA 4 WILL REFLECT IN BRACKETED LANGUAGE THE CHOICE BETWEEN "CONSULTATION" AND "DISCUSSION;" (D) PARAS 5, 6, 7 WILL REMAIN LARGELY UNCHANGED; (E) PARA 8 AGAIN REFLECTED THE PROBLEM WITH SPECIAL PROVISIONS FOR EEC AND OTHER ECONOMIC UNIONS. U.K., IN PRIVATE DISCUSSION WITH U.S. DEL, INDICATED THAT THEY WOULD BE PLEASED TO SEE U.S. CALL FOR DELETION OF PARA 8. IN THIS CONTEXT, "VISUALIZE" WAS REPLACED BY "EFFECTING" ONLY THE INWARD AND OUTWARD FLOW OF DIRECT INVESTMENT ONLY BETWEEN..." U.K. AGREED WITH U.S. THAT THIS LANGUAGE CHANGE WAS HELPFUL BUT STILL CONSIDERED THAT, IN GENERAL, THIS PARAGRAPH WAS NOT NECESSARY OR APPROPRIATE IN THIS CONTEXT. (F) PARA 9 WILL REFLECT IN BRACKETED LANGUAGE CHOICE BETWEEN "CONSULTA" "CONSULTATIONS" AND "DISCUSSIONS;" (G) ALL OF PARA 10 WILL BE BRACKETED.

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8. DISCUSSION OF MNE GUIDELINE TEXT TO NEXT IME.

VOGELAAR TURNED TO QUESTION OF WHAT CHANGES WOULD BE INTRODUCED IN REFDOC C FOR NEXT IME MEETING. HE DISTRIBUTED SLIGHTLY MODIFIED LANGUAGE ON TAX AND TECHNOLOGY PROVISIONS (AS FORWARDED FROM THE SPECIALIZED COMMITTEES) WHICH WAS ADOPTED WITHOUT COMMENT.

9. USDEL SAID FURTHER PROGRESS ON INFORMATION PROVISION MIGHT BE POSSIBLE AT THIS MEETING IF DRAFTING GROUP PREPARED TO WORK FROM US COMPROMISE PROPOSAL PUT FORWARD AT LAST IME. HE RECALLED THAT IT WAS WELL- RECEIVED BY A NUMBER OF DELEGATIONS, AND CHAIRMAN OF IME, WHO SUGGESTED IT COULD BE BASIS FOR COMPROMISE DRAFT. NEVERTHELESS, U.S. PROPOSAL HAD BEEN GIVEN ONLY CURSORY CONSIDERATION AT THE LAST MEETING OF DRAFTING GROUP.

10. VOGELAAR SUPPORTED BY A NUMBER OF DELEGATIONS TOOK POSITION THAT SINCE WE ARE AWAITING BIAC/TUAC COMMENTS ON CURRENT DRAFT, IT IS PREMATURE TO ATTEMPT LIMITED OFFICIAL USE

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FURTHER SUBSTANTIVE PROGRESS ON INFORMATION PROVISION. USDEL INDICATED THAT UNDER THOSE CIRCUMSTANCES US WOULD WITHHOLD COMPROMISE PROPOSAL FOR POSSIBLE USE AT LATER STAGE.

11. IN ABSENCE FURTHER PROGRESS USDEL TOOK POSITION THAT TEXT GOING FORWARD TO IME MUST SHOW ALTERNATIVES IN INFORMATION SECTION OF DRAFT MNE GUIDELINES. USDEL AGREED WITH SWEDISH PROPOSAL THAT ALTERNATIVE B SHOULD BE THE MOST RECENT REVISION REFLECTING DISCUSSION AT LAST DRAFTING GROUP MEETING, RATHER THAN ALTERNATIVE B SHOWN TO LAST IME. DRAFTING GROUP ALSO DECIDED, WITH USDEL CONCURRENCE, THAT REVISED ALTERNATIVE B SHOULD ALSO BE FORWARDED TO BIAC/TUAC AS AMENDMENT OF ALTERNATIVE B LANGUAGE WHICH THEY HAVE RECEIVED IN REFDOC F. THUS BOTH IME AND BIAC/TUAC WILL BE PRESENTED WITH REVISED VERSION OF ALTERNATIVE B.

12. COMMENT: STRAINED ATMOSPHERE WHICH EXISTED AT BEGINNING OF DRAFTING GROUP MEETING AS RESULT OF MIS-

UNDERSTANDING REGARDING HANDLING OF INFORMATION SECTION  
OF DRAFT GUIDELINES WAS QUICKLY DISSIPATED. THE  
DRAFTING GROUP MADE AS MUCH PROGRESS ON AGENDA ITEMS  
AS REASONABLE TO EXPECT CONSIDERING GENERAL DESIRE  
TO PROCEED CAUTIOUSLY PENDING REACTION OF BIAC/TUAC  
TO DRAFT GUIDELINES AND RELUCTANCE TO MAKE ANY  
COMPROMISES ON NATIONAL TREATMENT LANGUAGE UNTIL  
OUTLINE OF FINAL PACKAGE IS MORE CLEAR AND POSSIBLE  
TRADEOFFS BETWEEN THE ELEMENTS IN IT ARE CONSIDERED  
BY IME. BELIEVE USDEL MEETING WITH VOGELAAR ON DAY  
BEFORE WORKING GROUP MEETING WAS HELPFUL IN IMPROVING  
UNDERSTANDING BETWEEN U.S. AND SECRETARIAT. IN  
PARTICULAR, IT A) HELPED TO DISSUADE VOGELAAR FROM  
INTRODUCING PLAIN LANGUAGE TEXT OF NATIONAL TREATMENT  
IN DRAFTING GROUP (USDEL MADE IT CLEAR TO VOGELAAR  
HE WOULD REFUSE TO PARTICIPATE IN ANY DISCUSSION OF  
PLAIN LANGUAGE TEXT)AND (B) PUT FURTHER PRESSURE ON  
HIM TO SEND TO IME TEXT OF INFORMATION PROVISION WITH  
ALTERNATIVES SHOWN.

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